



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated February 27, 2023, which reads as follows:*

“G.R. No. 262777 (*Julius Dela Cruz y Artates vs. People of the Philippines*). – This Petition for Review on *Certiorari*<sup>1</sup> assails the Decision<sup>2</sup> dated February 17, 2022 and the Resolution<sup>3</sup> dated August 4, 2022 of the Court of Appeals (CA) in CA-G.R. CR No. 45103. The CA affirmed the Joint Decision<sup>4</sup> dated April 24, 2020 of the Regional Trial Court (RTC) of Iba, Zambales, Branch 70, finding petitioner Julius Dela Cruz y Artates (Julius) guilty of the following crimes: (1) Frustrated Homicide in Crim. Case No. RTC-11310-1; and (2) Homicide in Crim. Case No. RTC-11311-1.

**The Facts**

Two separate Information were filed against Julius:

**CRIMINAL CASE NO. RTC-11310-1**

That on or about the 16th day of February 2018, at about 10:30 pm, in Sitio Baculi, Barangay Cadmang, Municipality of Cabangan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously shoot with an unlicensed firearm one Dennis Melon, thereby inflicting upon him fatal gunshot wound, thus performing all the acts of execution which would have produced the crime of Homicide as a consequence, but nevertheless, did not produce it by reason of cause/s independent of his will, that is, by the timely and able medical attendance rendered to said Dennis Melon, which prevented his death, to the damage and prejudice of the latter.

CONTRARY TO LAW with an aggravating circumstance of use of unlicensed firearm.<sup>5</sup>

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<sup>1</sup> *Rollo*, pp. 11-29.

<sup>2</sup> *Id.* at 35-52; penned by Associate Justice Marie Christine Azcarraga-Jacob, with Presiding Justice Remedios A. Salazar-Fernando and Associate Justice Angelene Mary W. Quimpo-Sale, concurring.

<sup>3</sup> *Id.* at 54-56.

<sup>4</sup> *Id.* at 78-89; penned by Judge Marifi P. Chua.

<sup>5</sup> *Id.* at 36.

**CRIMINAL CASE NO. RTC-11311-1**

That on or about the 16th day of February 2018, at about 10:30 pm, in Sitio Baculi, Barangay Cadmang, Municipality of Cabangan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously shoot with an unlicensed firearm one Bobby Bulatao, thereby inflicting upon him fatal gunshot wound, which directly caused the death of said Bobby Bulatao, to the damage and prejudice of the family and heirs of deceased/victim Bobby Bulatao.

CONTRARY TO LAW with an aggravating circumstance of use of unlicensed firearm.<sup>6</sup>

Upon arraignment, Julius pleaded *not guilty*. Joint trial ensued.<sup>7</sup>

**Version of the Prosecution**

At around 10:30 pm of February 16, 2018, the victims Dennis Melon (Dennis) and Bobby Bulatao (Bobby), along with two others, Rudy Melon (Rudy) and Erick Palinlin (Erick), were walking along the road when they were chased by a dog owned by Julius. Erick threw a stone at the dog. This angered Julius; he went out of his house and then chased the group with a bolo. When Julius missed hitting any member of Dennis' group, he left, but later returned with an unlicensed gun, shooting Bobby and Dennis. Dennis pretended to be dead until police officers Senior Police Officer (SPO) 3 Jeffrey C. Arquero and SPO3 Jolly D. Panes arrived. Dennis and Bobby were immediately rushed to the hospital. Bobby was declared dead on arrival, while Dennis sustained a spinal cord injury and had to spend almost a month at the hospital.<sup>8</sup>

**Version of the Defense**

The defense claims that stones were thrown at his house. Upon checking, he saw two persons running away. He also saw Bobby standing in front of his yard. When Julius approached Bobby, the latter suddenly pointed a gun at him and ordered to walk towards the fields for a little talk. Then, Julius saw Dennis. As they walked towards the field, Julius thought of the possibility that he might be killed. Bobby tripped. Immediately, Julius grappled with Bobby; the gun fired and hit Bobby, who fell to the ground. Julius was able to wrest the gun from Bobby. Meanwhile, Dennis threw stones at Julius while shouting "*Putang Ina mo! Matay kan Jonit.*" Rattled, Julius' mind went blank and the gun suddenly fired unintentionally hitting Dennis. Julius left the place. At around 7:00 am the following day, Julius surrendered to the police station. Julius brought with him the subject firearm.<sup>9</sup>

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<sup>6</sup> Id. at 36-37.

<sup>7</sup> Id. at 37.

<sup>8</sup> Id. at 37-38.

<sup>9</sup> Id. at 38-39.

**Ruling of the RTC**

The RTC found Julius guilty beyond reasonable doubt of Frustrated Homicide and Homicide, *viz.*:

WHEREFORE, premises considered, Judgment is hereby rendered finding accused **JULIUS ARTATES DELA CRUZ**:

1. **“GUILTY”** beyond reasonable doubt of **FRUSTRATED HOMICIDE**, under **Art. 250 of the Revised Penal Code, as amended**, under **Crim. Case No. RTC-11310-1**, and is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years of *prision correccional* maximum as minimum to ten (10) years of *prision mayor* medium as maximum period.

He is likewise ORDERED to PAY private complainant Dennis Melon the amount of **TWO MILLION THIRTY ONE THOUSAND [EIGHT] HUNDRED PESOS** (P2,031,800.00) as actual/compensatory damages; civil indemnity in the amount of **THIRTY THOUSAND PESOS** (P30,000.00); moral damages in the amount of **THIRTY THOUSAND PESOS** (P30,000.00); exemplary damages in the amount of **THIRTY THOUSAND PESOS** (P30,000.00) and **THIRTY THOUSAND PESOS** (P30,000.00) as temperate damages, subject to the imposition of subsidiary imprisonment in case of insolvency;

Accused is also ORDERED to PAY interest at the rate of six percent (6%) *per annum* from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages, exemplary damages and temperate damages.

2. **“GUILTY”** beyond reasonable doubt of **HOMICIDE** under **Art. 249 of the Revised Penal Code, as amended**, under **Crim. Case No. RTC-11311-1**, and is hereby sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years of *prision mayor* maximum as minimum to fourteen (14) years eight (8) months and one (1) day of *reclusion temporal* medium as maximum period.

He is likewise ORDERED to PAY the heirs of the deceased Bobby Bulatao the amount of **FORTY ONE THOUSAND THREE HUNDRED TWENTY SIX PESOS** (P41,326.00) as actual damages; civil indemnity in the amount of **FIFTY THOUSAND PESOS** (P50,000.00); moral damages in the amount of **FIFTY THOUSAND PESOS** (P50,000.00); exemplary damages in the amount of **FIFTY THOUSAND PESOS** (P50,000.00); and **THREE HUNDRED THOUSAND PESOS** (P300,000.00) as temperate damages, subject to the imposition of subsidiary imprisonment in case of insolvency.

Accused is also ORDERED to PAY interest at the rate of six percent (6%) *per annum* from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages, exemplary damages and temperate damages.

The firearm and ammunition used as instruments of the crimes, being unlicensed, are hereby forfeited in favor of the government and shall be disposed of accordingly.

SO ORDERED.<sup>10</sup> (Emphases and underscoring in the original; italics supplied)

In imposing the indeterminate penalties, the RTC appreciated the aggravating circumstance of unlicensed firearm and the mitigating circumstance of voluntary surrender. The RTC noted that the said modifying circumstances have been properly alleged in the Information and proved by the prosecution during trial.<sup>11</sup>

Offsetting the aggravating circumstance with the mitigating circumstance, the RTC imposed the respective penalties of the crimes charged in their medium periods. Moreover, pursuant to the amount prescribed in *People v. Jugueta*,<sup>12</sup> the RTC also awarded exemplary damages since an aggravating circumstance has been duly proven during trial.

### The Ruling of the CA

The CA affirmed with modification the Joint Decision of the RTC:

**WHEREFORE**, premises considered, the instant appeal is hereby **DENIED**.

Accordingly, the *Joint Decision dated 24 April 2020* rendered by Branch 70, Regional Trial Court of Iba, Zambales in Criminal Case Nos. RTC-11310-1 and RTC-11311-1 is **AFFIRMED with modification as to penalty imposed and award of actual and temperate damages**.

In Criminal Case No. RTC-11310-1 for Frustrated Homicide, appellant is sentenced to imprisonment of **six (6) years of *prision correccional* to twelve (12) years of *prision mayor***.

The award of temperate damages is **DELETED**.

In Criminal Case No. RTC-11311-1 for Homicide, appellant is sentenced to **twelve (12) years of *prision mayor* to twenty (20) years of *reclusion temporal***.

The award of actual damages is **DELETED** while temperate damages in the amount of Fifty Thousand Pesos (Php 50,000.00) is granted.

SO ORDERED.<sup>13</sup> (Emphases and italics in the original)

In modifying the penalties imposed by the RTC, the CA noted that the RTC was incorrect in offsetting the mitigating circumstance of voluntary surrender and aggravating circumstance of use of unlicensed firearm. The CA emphasized that the use of unlicensed firearm is a special aggravating circumstance which cannot be offset by an ordinary mitigating circumstance,

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<sup>10</sup> Id. at 87-89.

<sup>11</sup> Id. at 86.

<sup>12</sup> 783 Phil. 806 (2016).

<sup>13</sup> *Rollo*, p. 51.

such as voluntary surrender. Following Article 64 of the Revised Penal Code, the penalties imposable for the crimes charged should be in their maximum period, instead of the medium period applied by the RTC.<sup>14</sup>

Further, the CA reiterated the ruling in *People v. Racal*<sup>15</sup> that the award of temperate damages is only justified in lieu of actual damages if the amount of actual damages proven is less than the sum of ₱50,000.00 allowed by the Court as temperate damages. As far as Criminal Case No. RTC-11310-1 (Frustrated Homicide) is concerned, the CA sustained the award of actual damages in the amount of ₱2,031,800.00, as it is higher than the sum of ₱50,000.00 allowed by the Court as temperate damages. On the other hand, for Criminal Case No. RTC-11311-1 (Homicide), the CA awarded temperate damages in lieu of the lower amount of ₱41,326.00 as actual damages.<sup>16</sup>

The CA denied the motion for reconsideration filed by Julius.<sup>17</sup>

Undaunted, Julius filed a Petition for Review on *Certiorari*<sup>18</sup> before the Court arguing that he did not have the intent to kill because he merely acted in retaliation to the victims,' together with their companions, act of throwing stones.

### **Ruling of the Court**

The petition is without merit. The prosecution was able to prove beyond reasonable doubt that Julius is guilty of Frustrated Homicide and Homicide.

Contrary to Julius' claim, there is overwhelming evidence that Julius had the intent to kill.

As correctly noted by the CA, Julius already attempted to harm the victims and their companions with a bolo. Thereafter, he left and later returned with a gun, shooting Dennis and Bobby. Julius fatally shot Bobby at close range, while he shot Dennis at the abdomen.<sup>19</sup> The intent to kill is manifest with Julius' use of a gun and the location of the gunshot wounds he inflicted on the victims.

Julius' claim of self-defense is also unsubstantiated.

For a claim of self-defense to prosper, the accused must by clear and convincing evidence prove the following circumstances: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient

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<sup>14</sup> Id. at 48.

<sup>15</sup> 817 Phil. 665 (2017).

<sup>16</sup> *Rollo*, pp. 49-50.

<sup>17</sup> Id. at 54-56.

<sup>18</sup> Id. at 11-29.

<sup>19</sup> Id. at 44.

provocation on the part of the person resorting to self-defense.<sup>20</sup> In the case of Julius, the records do not show that there was unlawful aggression on the part of the victims. In fact, it must be remembered that the victims and their companion were just passing by, and they felt the need to protect themselves from the dog and also from Julius, who chased them with a bolo.<sup>21</sup>

Finally, the penalties imposed and the damages awarded, as modified by the CA, are in accordance with the law and recent jurisprudence.

**WHEREFORE**, the petition is **DENIED**. The Decision dated February 17, 2022 and the Resolution dated August 4, 2022 of the Court of Appeals in CA-G.R. CR No. 45103 are **AFFIRMED**.

Petitioner Julius Dela Cruz y Artates is sentenced to the following:

- (1) For Frustrated Homicide, indeterminate penalty of imprisonment of **six (6) years of *prision correccional*, as minimum, to twelve (12) years of *prision mayor*, as maximum**; and
- (2) For Homicide, indeterminate penalty of imprisonment of **twelve (12) years of *prision mayor*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum**.

Petitioner Julius Dela Cruz y Artates is also **ORDERED** as follows:

- (1) To **PAY** private complainant Dennis Melon the amount of **₱2,031,800.00** as actual/compensatory damages, civil indemnity in the amount of **₱30,000.00**, moral damages in the amount of **₱30,000.00**; and exemplary damages in the amount of **₱30,000.00**, subject to the imposition of subsidiary imprisonment in case of insolvency; and
- (2) To **PAY** the heirs of the deceased Bobby Bulatao the amount of **₱50,000.00** as temperate damages, civil indemnity in the amount of **₱50,000.00**, moral damages in the amount of **₱50,000.00**; and exemplary damages in the amount of **₱50,000.00**, subject to the imposition of subsidiary imprisonment in case of insolvency.

<sup>20</sup> *Guevarra v. People*, 726 Phil. 183, 194 (2014).

<sup>21</sup> *Rollo*, p. 47.

All monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.

**SO ORDERED.”**

By authority of the Court:

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court* JB 3/31/23

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Branch 70, Iba  
2201 Zambales  
(Crim. Case Nos. RTC-11311-1 and RTC-11310-1)

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**G.R. No. 262777**

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